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CHANDIGARH ADMINISTRATION
HOME DEPARTMENT
(POLICE BRANCH)

Notification

The 14th October, 2024

No.1725897-HIII(2)-2024/14660.—In partial modification of the Chandigarh Administration Notification bearing No. 435042-HIII(2)2024/8998 dated 30.06.2024 and in exercise of the powers conferred by Section 15 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023) read with Government of India, Ministry of Home Affairs Notification bearing No.S.O.2506(E) dated 28.06.2024, the Administrator, Union Territory of Chandigarh is pleased to fix the term of the Special Executive Magistrates, from the date of issuance of said bearing notification No.435042-HIII(2)2024/8998 dated 30.06.2024 till 15.10.2024.

(In the name & by order of Administrator,
UT Chandigarh)

Chandigarh :
The 9th October, 2024.

RAJEEV VERMA, IAS,
Adviser to the Administrator,
UT Chandigarh.

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CHANDIGARH ADMINISTRATION
(ESTATE DEPARTMENT)

Notification

The 14th October, 2024

No. 10/3/2-UTFI(I)/2024/15705.—In exercise of the powers conferred by Sub-Section (2) of Section 21 of the Capital of Punjab (Development and Regulation) Act, 1952, I, Mandip Singh Brar, IAS, Chief Administrator, Union Territory, Chandigarh hereby delegate powers exercisable by me for implementation of Chandigarh Advertisement Control Order, 1954 to Sh. Vinay Pratap Singh, IAS, Commissioner, Municipal Corporation, Chandigarh with immediate effect for day to day implementation of the said Control Order.

Chandigarh :
The 14th October, 2024.

MANDIP SINGH BRAR, IAS,
Chief Administrator,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 8th October, 2024

No. 13/2/156-HII(2)-2024/15353.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **74/2023** dated **02.08.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

JASBIR KAUR W/O LATE SH. MOHAN SINGH, H.NO.35, GALLI NO.2, DASHMESH NAGAR,
BALONGI, DISTRICT MOHALI. (Workman)

AND

THE DIRECTOR OF AGRICULTURE PUNJAB, SCO NO.85-88, SECTOR 34-A, CHANDIGARH
THROUGH ITS DIRECTOR. (Management)

AWARD

1. Jasbir Kaur, claimant has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that during the pendency of Civil Writ Petition (CWP) No.4860 of 1995 before the Hon'ble High Court of Punjab & Haryana, workman - Shri Mohan Singh died on 06.01.2021. Copy of the death certificate is annexed as Annexure 'A'. Smt. Jasbir Kaur W/o Late Shri Mohan Singh, resident of H.No.36, Gali No.2, Dashmesh Colony, Balongi, District Mohali is the legal Representative of Late Shri Mohan Singh, who is interested in pursuing the instant case against termination of services of her husband as she would be entitled for service benefits etc. in case the present industrial dispute is accepted.

3. Shri Mohan Singh - workman (since deceased) was appointed by the management as Driver on 15.06.1992 as daily wager against regular vacancies. Said Mohan Singh has completed more than 240 days of service. The workman was still in continuous and uninterrupted employment when he was threatened with termination of services w.e.f. 01.04.1995. At the time of termination, the workman was drawing ₹ 9,000/- per month. The services of the workman were terminated on 14.11.1995. On 27.03.1995, the workman was called in his office by the management and he was given a proforma. The proforma was in the form of contract which the workman was asked to execute on a stamp paper. According to this proforma, the contract will be for one year and the workman will not be entitled to get any kind of leave during this period. The management can terminate the contract without notice. The workman will have to give a week notice. The nature of contract is illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. While giving proforma to the workman on 27.03.1995, the workman has been told by the management that proforma must be filled up before 01.04.1995, otherwise, the services of the workman would be terminated. At the time of termination, there were still many vacancies of drivers lying vacant in the management-department at Patiala, Bathinda, Ferozpur, Sangrur, Morinda, Dhuri, Batala, Nawan Shehar. All these were regular posts against which no appointment has so far being made. As such, the termination of services of the workman and to recruit other persons in his place is illegal, wrongful, arbitrary, unjustified, against the principle of natural justice and unfair labour practice. The Punjab Government has announced that

all those employees who have completed more than 240 days of service will be regularised. In view of this, the action of the management in converting the terms of appointment of the workman from daily wages to contractual basis was illegal, unjustified as the workman was likely to be regularised as per the announcement made by the Punjab Government. The refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25F of the ID Act. No charge-sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. Violation of the same makes the termination void. The workman along with 4 other employees, all Drivers, filed a CWP No.4860 of 1995 titled as Mohan Singh & Others Versus State of Punjab & Another for the regularisation of their service with a direction to the management not to terminate the services of the workman w.e.f. 14.11.1995. The Hon'ble High Court while disposing the CWP No.4860 of 1995 on 14.07.2023 ordered that since the petitioners were working as Drivers, they can raise the dispute directly before the Labour Court in terms of the new amended Section 10A of ID Act. The Hon'ble High Court further ordered that the Labour Court would be free to pass orders in respect of the relief claimed by the petitioner and the pendency of this Writ Petition would be taken into consideration for the purpose of limitation. The services of the workman were terminated as the workman has approached the Hon'ble High Court of Punjab & Haryana for his regularisation. The action of the management in terminating the services of the workman is illegal, wrongful, motivated, against the principle of natural justice and unfair labour practice. Prayer is made that the termination of services of the workman be declared as illegal and the workman may be paid full back wages from the date of termination to the date of death 06.01.2021.

4. Along with the claim statement the claimant has filed computer generated copy of order dated 14.07.2023 passed by the Hon'ble High Court in CWP. No.4860 of 1995 titled as Mohan Singh & Others Versus State of Punjab through Secretary to the Government of Punjab, Department of Agriculture, Punjab, Chandigarh and Another. The relevant portion of order dated 14.07.2023 of Hon'ble High Court is reproduced as below ;

"3. This Court does not have the facts available in the Writ with regard to the reasons of termination and whether compliance in terms of Industrial Disputes Act, 1947 was made. However, since the petitioners were working as drivers, they can raise the dispute directly before the Labour Court in terms of new amended Section 10A of the Industrial Disputes Act, 1947."

5. Further along with claim statement the claimant has also filed death certificate of Mohan Singh S/o Shri Bakhtawar Singh (incorporating date of death as 06.01.2021).

6. Notice issued to the management for dated 15.04.2024 under registered cover vide postal receipt dated 21.03.2024 was not received back undelivered. As per the track consignment report of Postal Department RC was delivered to the addressee / management on 22.03.2024. On service of notice to management through RC, on 15.04.2024 Shri Jaspal Singh, Geologist appeared on behalf of the management and placed on record an application regarding his appearance mentioning therein that the department does not have record relating to the case. The copy of claim statement was supplied to Shri Jaspal Singh, Geologist in the Court on 15.04.2024 and his statement regarding receipt of same was recorded separately. On joint request, the case was adjourned from 15.04.2024 to 11.05.2024 to be taken up in the National Lok Adalat. On 11.05.2024, claimant appeared in person along with her Representative in the National Lok Adalat but the efforts to effect compromise could not be made as none appeared on behalf of the management and the case was adjourned to 03.06.2024 to be taken up in the regular Court for filing written statement. On dated 03.06.2024, none appeared on behalf of the management and the management was proceeded against ex-parte and the case was adjourned for ex-parte evidence of workman.

7. In ex-parte evidence, claimant Jasbir Kaur examined herself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 02.08.2024 Learned Representative for the workman tendered into evidence copy of death certificate of Mohan Singh (incorporating his date of death 06.01.2021) issued by Sub-Registrar (Birth & Death), GMCH, Sector 32, Chandigarh vide **Exhibit 'W1'** and closed ex-parte evidence.

8. I have heard the arguments of Learned Representative for the claimant and perused the judicial file.

9. The claimant Jasbir Kaur vide her affidavit / Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity.

10. From the evidence led by the claimant, it is duly established on record that on 15.06.1992, the workman was appointed by the management-department i.e. Director of Agriculture, Punjab on the post of Driver as daily wager against regular vacancy. He worked up to 14.11.1995 when his services were terminated by the management with verbal order. The workman was getting salary of ₹ 9,000/- per month. It is duly established on record that on termination the workman had continuously worked for more than 240 days in 12 calendar months immediately prior to 14.11.1995 and his services were terminated without following the mandate of Section 25F of the ID Act. Consequently, the termination constituted illegal retrenchment. The management authority involved in this case is apparently a public authority. The workman was daily wager and not a permanent employee. The fact that the management is a public authority would not absolve the public authority from complying with the provisions of Section 25F of the ID Act and should it contravene Section 25F of the ID Act, it would amount to unfair labour practice. The averments made in the claim application and the evidence led by the claimant vide her affidavit Exhibit 'AW1/A' has gone unrebuted and unchallenged as the management despite service of notice and appearance through its official did not bother to contest the claim statement and preferred to be proceeded against ex-parte. Consequently, it is duly established on record that the management has terminated the services of the workman (daily wager) without complying with the conditions laid down under Section 25F of the ID Act.

11. The Hon'ble Supreme Court in case titled as *BSNL Versus Bhurumal, reported in (2014)7 SCC 177* as held as under :-

"33. It is clear from the reading of the aforesaid judgements that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular / permanent workman are terminated illegally and / or malafide and /or by way of victimisation, unfair labour practice etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale of shifting of this direction is obvious.

34. The reason for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he

is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] J. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

35. We would, however, like to add a caveat here. There may be cases where termination of daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied."

12. In the light of the judgement of Hon'ble Supreme Court referred above, this is a case where it is proved that the workman working on daily wages had worked for 240 days in 12 calendar months immediately preceding termination (services being terminated w.e.f. 14.11.1995) and his services were terminated by the management without following the conditions laid down under Section 25F of the ID Act. It is not the case of the workman that while terminating the services, the daily wage workers junior to him were retained in service. The claimant has not placed on record any document to show that after the termination of services of the workman, the management appointed new employees as daily-wage workers in his place. The workman has not been working since 14.11.1995 following the order of termination of his services till the date of his death i.e. 06.01.2021. Under the circumstances, the management is held liable to pay ₹ 1,50,000/- towards compensation of workman (since deceased) to be disbursed to Legal Heir(s) of the deceased workman.

Relief :

13. In the view of foregoing finding above, this industrial dispute is ex-parte allowed. The management is held liable to pay ₹ 1,50,000/- towards compensation of workman (since deceased) to be disbursed to Legal Heir(s) of the deceased workman within three months from the date of publication of this Award in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the above amount from the date of this Award till its actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

Dated : 02.08.2024.

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 8th October, 2024

No. 13/2/157-HII(2)-2024/15349.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **56/2022** dated **14.08.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

DINESH YADAV S/O SH. RAM BHAJAN, #170/1, MALOYA COLONY, CHANDIGARH.
(Workman)

AND

M/S ISHAN FASTENER (INCORRECTLY SPELLED AS FASTNER), PLOT NO. 286,
INDUSTRIAL AREA, PHASE - 1, CHANDIGARH THROUGH ITS PROPRIETOR/OCCUPIER
AND MANAGER. (Management)

AWARD

1. Dinesh Yadav, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed as Helper by the management w.e.f. 02.04.1993. His wages were fixed. Now the workman was working as Salter man and his last paid monthly wages were ₹ 9,300/-. The workman successfully performed his duties. The workman was punctual and honest for his duties. The management was entirely satisfied with the work & conduct of the workman. The management deliberately did not comply with the provisions of law relating to maintaining the records. The co-workers are eye-witness of whole service of the workman. The management entered the name of the workman very late in ESI record. The workman's attendance was marked in rough notebook (*Kachi copy*). The wages were paid to the workman after obtaining the signatures on vouchers and blank papers. The management stopped obtaining signatures on wage register and any other paper. The management had taken 12 hours duty except Sunday. On 16.09.2021 workman reported for duty but the management refused to allow him duty. The workman made verbal and written requests several times to the management but all in vain and the management did not agree to take him back in service. The management refused to pay remuneration etc. to the workman. The workman devoted 28 golden years of his life for the management. The management neither issued any memo, charge sheet nor conducted any inquiry before termination of services. The management has not paid or offered notice pay in lieu of notice or compensation to the workman. The job of workman exists as it is till date. The juniors to the workman are still retained in service by the management. The management has violated Sections 25F, 25G and 25H of the ID Act. Prayer is made that the order of termination of services may be declared as illegal and workman may be reinstated with continuity of service, full back wages and consequential benefits.

3. Notice issued to the management for dated 30.11.2022 through ordinary process was received back unserved with the report 'Firm closed'. Thereafter, on filing of correct address of management (Plot No.294, Industrial Area, Phase - I, Chandigarh), notice to management issued for dated 11.04.2023 was received back executed through Shri Varinder - Supervisor. None appeared on behalf of the management despite service of summons, thus vide order dated 11.04.2023 the management was proceeded against ex-parte.

4. In ex-parte evidence the workman examined AW1 Gurmeet Singh - Senior Assistant, ESIC; AW2 Sukhjit Singh, Clerk ALC; workman Dinesh Kumar examined himself as AW3. Besides, the workman examined AW4 Prem Sagar - Labour Inspector and AW5 Narendra Singh - Foreman working with the office of management. On 14.08.2024 Learned Representative for the workman closed ex-parte evidence.

5. I have heard the arguments of Learned Representative for the workman and perused the judicial file.

6. The workman examined AW1 Gurmeet Singh - Senior Assistant, O/o ESIC, Sector 29, Chandigarh who brought the summoned record i.e. authority letter in his favour issued by Branch Manager, ESIC, Chandigarh vide Exhibit 'AW1/1'; attested copies of documents i.e. Form 01 relating to M/s Ishan Fasteners, Plot No.182/10, Industrial Area, Phase - 1, Chandigarh vide Exhibit 'AW1/2'; Return of contributions under Employees' State Insurance Corporation incorporating name of the workman Dinesh Kumar and details of contribution for the period from April 2011 to September 2011, October 2011 to March 2012, April 2012 to September 2012, October 2012 to March 2013, April 2013 to September 2013, October 2013 to March 2014, April 2014 to September 2014, October 2014 to March 2015, April 2015 to September 2015, October 2015 to March 2016, April 2016 to September 2016, October 2016 to March 2017, April 2017 to September 2017, October 2017 to March 2018, April 2018 to September 2018, October 2018 to March 2019, April 2019 to September 2019 and October 2019 to March 2020, April 2020 to September 2020 and October 2020 to March 2021, April 2021 to September 2021 bearing the name of establishment M/s Ishan Fasteners, Plot No.182/10, Industrial Area, Phase-1, Chandigarh vide Exhibit 'AW1/3' to 'AW1/23' respectively; the registration of M/s Ishan Fasteners, Chandigarh dated 09.08.1993 under the ESI Act vide Exhibit 'AW1/24' and detail of total contribution for the period from 01.10.2010 to 30.09.2021 vide Exhibit 'AW1/25'.

7. The workman examined AW2 Sukhjit Singh - Clerk O/o Assistant Labour Commissioner, Sector 30, Chandigarh who brought the summoned record in original and placed on record photocopy of the proceedings from 23.11.2021 to 22.08.2022 (4 pages) before the Assistant Labour Commissioner-cum-Conciliation Officer, U.T., Chandigarh relating to demand notice dated 19.10.2021 is Exhibit 'AW2/1'. AW2 deposed that the management has not submitted Form - III under Rule 17 of Payment of Wages Act, 1936. The registration certificate of the management under the Factories Act is not in possession of their department. Shri Prem Sagar, Labour Inspector had verbally told the management to provide copy of the registration certificate but the management did not provide the same. Consequently, Labour Inspector, U.T. Chandigarh vide letter Memo No.LI-1/2023/1078 dated 15.11.2023 has prosecuted the management two times under the Punjab Shops and Commercial Establishments Act, 1958 on 18.09.2023 and 25.10.2023 respectively. He proved the copy of aforesaid letter Memo No.LI-1/2023/1078 dated 15.11.2023 vide Exhibit 'AW2/2'. He further deposed that the office copy of registration certificate under the Punjab Shops and Commercial Establishments Act and The Factories Act, 1948 remains in possession of concerned Labour Inspector, U.T, Chandigarh. The copies of the record tendered by him are true and correct as per the original.

8. Workman Dinesh Yadav examined himself as AW3 and vide his affidavit Exhibit 'AW3/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW3 supported his oral version with self-attested copies of his ESI Card vide Exhibit 'AW3/1' and his aadhar card vide Exhibit 'AW3/2'.

9. The workman examined AW4 Prem Sagar - Labour Inspector, who deposed that he has brought the copies of summoned record and proved the prescribed Inspection Performa incorporating the compliance and violation observed during inspection vide Exhibit 'AW4/1'. He deposed that at the time of inspection conducted on 18.09.2023, the employer was not present at the spot. However, he met Narender Singh, Foreman at the spot. He told Narender Singh, Foreman to communicate employer to report him in the office by the next date on 19.09.2023 but the employer did not report him on 19.09.2023. After waiting for a reasonable period, he again on 17.10.2023 telephonically called employer asking him as to why he did not report in his office on 19.09.2023, to which the employer replied that his firm is closed from last 3 years. Thereafter, he asked employer to furnish information of closure of firm to the Labour Department on 19.10.2023 but employer did not turn up till 25.10.2023. Thereafter, he initiated prosecution of non-production of record against the employer before the Court of Learned CJM, Chandigarh which is now pending for 24.04.2024. He further deposed that the record of registration of firm under the Factories Act and Registration under the Shops Act is maintained in their office. Without going through the record, he cannot say if the management firm was registered under the Factories Act or under the Shops Act. However, he can ascertain the same from the dealing hand of their department. Remaining examination-in-chief of AW4 was deferred with direction to produce the record of registration of the management firm. On 14.08.2024 AW4 in his remaining examination-in-chief deposed that he has not brought the summoned record of registration of the management firm

under the Shops Act and the registration under the Factories Act as the same is not available online. No record of registration is maintained except online record by the Labour Department, U.T, Chandigarh.

10. The workman examined AW5 Narendra Singh - Foreman, O/o M/s Ishan Fasteners, who brought the summoned record in part i.e. attendance register of workman for the period w.e.f. May, 2017 to February, 2021 in original; the office record of Registration of Ishan Fasteners, postal address 286, Industrial Area-1, Chandigarh and original ESI register (Form No.7) of M/s Ishan Fasteners, 182/10, Industrial Area, Phase-1, Chandigarh for the period August, 1993 to September, 1994 and with address of M/s Ishan Fasteners, 286, Industrial Area, Phase-1, Chandigarh for the period from October 1994 to March 2011. The copies of relevant entries of attendance register of May, 2017 and February, 2021 are Exhibit 'AW5/1' and Exhibit 'AW5/2' respectively, copy of registration certificate of M/s Ishan Fasteners, Plot No. 286, Industrial Area, Phase-1, Chandigarh accompanied with Form A (u/s 10 (2) (i) of The Punjab Shops & Commercial Establishments Act, 1958) & Form B (u/s 20 (1) of The Punjab Shops & Commercial Establishments Act, 1958) incorporating the name of workman at Sr. No. 5 of Form-A vide Exhibit 'AW5/3'. The copies of the relevant entry of ESI register of August, 1993; October to December, 1994 and January to March, 2011 is Exhibit 'AW5/4' to Exhibit 'AW5/6' respectively. He deposed that no appointment letter is issued to any employee by the management, thus there is no record of appointment with the management. No designation letter, leave card, wage slips and attendance card was issued by the management to any of its employees, thus there is no record relating to same. The management-company is functioning at present.

11. From the oral as well as documentary evidence led by the workman it is proved that the workman was appointed as Helper by the management w.e.f. 02.04.1993. The workman was not issued any appointment letter by the management. In this regard, AW5 working as Foreman with the management M/s Ishan Fastener was summoned and examined. AW5 categorically deposed that no appointment letter is issued to any employee by the management, thus there is no record of appointment with the management. AW5 further deposed that no designation letter, leave card, wage slips and attendance card was issued by the management to any of its employees thus there is no record relating to the same. The aforesaid version of AW5 would support the workman's plea that the management does not maintain the service record of its employees and deliberately does not comply with the mandatory provisions of Labour Law. Adverse inference stands drawn against the management for non-maintenance of service record of its employees including workman. There is no reason to disbelieve the workman's plea that he was appointed w.e.f. 02.04.1993 and he was covered under the ESIC and EPF scheme w.e.f. April, 2011. As per Exhibit 'AW1/2' the management M/s Ishan Fastener is registered under the ESIC scheme w.e.f. 04.08.1993. Furthermore, the entries of Exhibit 'AW1/2' would reveal that the establishment of M/s Ishan Fastener had applied for licence under the Factories Act. The workman had made best efforts to summon the record of registration of the management under the Factories Act by examining AW4 Prem Sagar - Labour Inspector, who in his statement recorded on 14.08.2024 deposed that he has not brought the summoned record of registration of the management firm under the Shops Act and registration under the Factories Act as the same is not available on-line. AW4 further deposed that no record of registration is maintained except on-line record by the Labour Department, U.T. Chandigarh.

12. The workman remained in continuous service of the management w.e.f. 02.04.1993 to 16.09.2021. The last drawn monthly wages of the workman were ₹ 9,300/- . The workman has alleged that when on 16.09.2021 he went to report for his normal duties, he was verbally refused to perform duty by the management without assigning any reason and without issuance of any prior notice. The workman is proved to have completed 240 days of continuous service in 12 calendar months preceding termination (services terminated on 16.09.2021). Thus, the workman fulfills the requirement of Section 25B of the ID Act. Once the workman falls within the purview of Section 25B of the ID Act, it is mandatory for the management employer to follow the mandate of Section 25F of the ID Act. For better appreciation Section 25 of the ID Act is reproduced below :-

"25F. Conditions precedent to retrenchment of workmen. - No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

- (b) *the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and*
- (c) *notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette]."*

13. In the present case, the workman has taken the plea that his services were terminated vide verbal order on 16.09.2021 and before termination of his services the management neither issued any memo, charge sheet nor conducted any inquiry. At the time of termination, the workman was neither offered nor paid notice pay in lieu of the notice period and also not paid retrenchment compensation. The aforesaid plea taken by the workman has gone unrebuted and unchallenged as the management despite service of notice did not bother to appear and to contest the claim statement. There is no reason to disbelieve the evidence led by the workman. Accordingly, it is proved that the management was not justified in terminating the services of the workman w.e.f. 16.09.2021 without making compliance of the conditions laid down in Section 25F of the ID Act. Consequently, the verbal order of termination of services passed by the management in violation of Section 25F of the ID Act is illegal. The workman has specifically pleaded into claim statement and deposed in his affidavit Exhibit 'AW3/A' that he has no source of income except wages received from the management. AW5, who is employee of the management, has categorically deposed that the management company is functioning at present.

14. The workman has neither mentioned nor proved into evidence the names of the workmen who were allegedly junior to the workman and retained in service at the time of termination of services of the workman and also not proved that any other employee was employed at the place of the workman. Thus, the violation of Section 25G & 25H of the ID Act is not proved.

15. In view of the reasons recorded above, the verbal order of termination of services of the workman w.e.f. 16.09.2021 is hereby set aside and the workman is held entitled to reinstatement with continuity of service and 50% back wages.

Relief :

16. In the view of foregoing finding, this industrial dispute is ex-parte allowed. The verbal order of termination of services of the workman w.e.f. 16.09.2021 is set aside and the workman is held entitled to reinstatement with continuity of service and 50% back wages. The management is directed to comply with the Award within three months from the date of publication of the same in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this Award till its actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

Dated : 14.08.2024.

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 8th October, 2024

No. 13/2/155-HII(2)-2024/15355.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **75/2023** dated **02.08.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

MAJOR SINGH S/O SH. PARSHOTAM SINGH, H. NO. 413, BALMIKI MOHALLA,
SECTOR 45, BURAIL, CHANDIGARH. (Workman)

AND

THE DIRECTOR OF AGRICULTURE PUNJAB, SCO NO. 85-88, SECTOR 34-A, CHANDIGARH
THROUGH ITS DIRECTOR. (Management)

AWARD

1. Major Singh, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management as Driver on 11.07.1991 as daily wager against regular vacancies. The workman has completed more than 240 days of service. The workman was still in continuous and uninterrupted employment when he was threatened with termination of services w.e.f. 01.04.1995. At the time of termination, the workman was drawing ₹ 9,000/- per month. The services of the workman were terminated on 14.11.1995. The management appointed fresh person in his place which is violation of Section 25H of the ID Act. On 27.03.1995, the workman was called in his office by the management and he was given a proforma. The proforma was in the form of contract which the workman was asked to execute on a stamp paper. According to this proforma, the contract will be for one year and the workman will not be entitled to get any kind of leave during this period. The management can terminate the contract without notice. The workman will have to give a week notice. The nature of contract is illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. While giving proforma to the workman on 27.03.1995, the workman has been told by the management that proforma must be filled up before 01.04.1995, otherwise, the services of the workman would be terminated. At the time of termination, there were still many vacancies of drivers lying vacant in the management-department at Patiala, Bathinda, Ferozpur, Sangrur, Morinda, Dhuri, Batala, Nawan Shehar. All these were regular posts against which no appointment has so far being made. In the phase of it the termination of services of the workman and to recruit other persons in his place is illegal, wrongful, arbitrary, unjustified, against the principle of natural justice and unfair labour practice. The Punjab Government has announced that all those employees who have completed more than 240 days of service will be regularised. In view of this, the action of the management in converting the terms of appointment of the workman from daily wages to contractual basis was illegal, unjustified as the workman was likely to be regularised as per the announcement made by the Punjab Government. The refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25F of the ID Act. No charge-sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. Violation

of the same makes the termination void. The workman along with 4 other employees, all Drivers, filed a Civil Writ Petition (CWP) No.4860 of 1995 titled as Mohan Singh & Others Versus State of Punjab & Another for the regularisation of their service with a direction to the management not to terminate the services of the workman w.e.f. 14.11.1995. The Hon'ble High Court while disposing the CWP No.4860 of 1995 on 14.07.2023 ordered that since the petitioners were working as Drivers, they can raise the dispute directly before the Labour Court in terms of the new amended Section 10-A of ID Act. The Hon'ble High Court further ordered that the Labour Court would be free to pass orders in respect of the relief claimed by the petitioner and the pendency of this Writ Petition would be taken into consideration for the purpose of limitation. The services of the workman were terminated as the workman has approached the Hon'ble High Court of Punjab & Haryana for his regularisation. The action of the management in terminating the services of the workman is illegal, wrongful, motivated, against the principle of natural justice and unfair labour practice. Prayer is made that the termination of services of the workman be declared as illegal and the workman may be paid full back wages from the date of termination.

3. Along with the claim statement the workman has filed computer generated copy of order dated 14.07.2023 passed by the Hon'ble High Court in CWP. No.4860 of 1995 titled as Mohan Singh & Others Versus State of Punjab through Secretary to the Government of Punjab, Department of Agriculture, Punjab, Chandigarh and Another. The relevant portion of order dated 14.07.2023 of Hon'ble High Court is reproduced as below ;

"3. This Court does not have the facts available in the Writ with regard to the reasons of termination and whether compliance in terms of Industrial Disputes Act, 1947 was made. However, since the petitioners were working as drivers, they can raise the dispute directly before the Labour Court in terms of new amended Section 10A of the Industrial Disputes Act, 1947."

4. Notice issued to the management for dated 15.04.2024 under registered cover vide postal receipt dated 21.03.2024 was not received back undelivered. As per the track consignment report of Postal Department RC was delivered to the addressee / management on 22.03.2024. On service of notice to management through RC, on 15.04.2024 Shri Jaspal Singh, Geologist appeared on behalf of the management and placed on record an application regarding his appearance mentioning therein that the department does not have record relating to the case. The copy of claim statement was supplied to Shri Jaspal Singh, Geologist in the Court on 15.04.2024 and his statement regarding receipt of same was recorded separately. On joint request, the case was adjourned from 15.04.2024 to 11.05.2024 to be taken up in the National Lok Adalat. On 11.05.2024, workman appeared in person along with his Representative in the National Lok Adalat but the efforts to effect compromise could not be made as none appeared on behalf of the management and the case was adjourned to 03.06.2024 to be taken up in the regular Court for filing written statement. On dated 03.06.2024, none appeared on behalf of the management and the management was proceeded against ex-parte and the case was adjourned for ex-parte evidence of workman.

5. In ex-parte evidence, workman Major Singh examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 02.08.2024 Learned Representative for the workman closed ex-parte evidence.

6. I have heard the arguments of Learned Representative for the workman and perused the judicial file.

7. The workman Major Singh vide his affidavit / Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity.

8. From the evidence led by the workman, it is duly established on record that on 11.07.1991, the workman was appointed by the management-department i.e. Director of Agriculture, Punjab on the post of

Driver as daily wager against regular vacancy. He worked up to 14.11.1995 when his services were terminated by the management with verbal order. The workman was getting salary of ₹ 9,000/- per month. It is duly established on record that on termination the workman had continuously worked for more than 240 days in 12 calendar months immediately prior to 14.11.1995 and his services were terminated without following the mandate of Section 25F of the ID Act. Consequently, the termination constituted illegal retrenchment. The management authority involved in this case is apparently a public authority. The workman was daily wager and not a permanent employee. The fact that the management is a public authority would not absolve the public authority from complying with the provisions of Section 25F of the ID Act and should it contravene Section 25F of the ID Act, it would amount to unfair labour practice. The averments made in the claim application and the evidence led by the workman vide his affidavit Exhibit 'AW1/A' has gone unrebutted and unchallenged as the management despite service of notice and appearance through its official did not bother to contest the claim statement and preferred to be proceeded against ex-parte. Consequently, it is duly established on record that the management has terminated the services of the workman (daily wager) without complying with the conditions laid down under Section 25F of the ID Act. In the claim statement, the workman has not claimed the relief of reinstatement and is seeking the relief of full back wages from the date of termination whereas the workman in evidence by way of affidavit Exhibit 'AW1/A' is seeking the relief of reinstatement.

9. The Hon'ble Supreme Court in case titled as ***BSNL Versus Bhurumal, reported in (2014)7 SCC 177*** as held as under :-

"33. It is clear from the reading of the aforesaid judgements that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular / permanent workman are terminated illegally and / or malafide and /or by way of victimisation, unfair labour practice etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale of shifting of this direction is obvious.

34. The reason for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

35. We would, however, like to add a caveat here. There may be cases where termination of daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching

such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied."

10. In the light of the judgement of Hon'ble Supreme Court referred above, this is a case where it is proved that the workman working on daily wages had worked for 240 days in 12 calendar months immediately preceding termination (services being terminated w.e.f. 14.11.1995) and his services were terminated by the management without following the conditions laid down under Section 25F of the ID Act. It is not the case of the workman that while terminating the services, the daily wage workers junior to him were retained in service. The workman has not placed on record any document to show that after the termination of services the management appointed new employees as daily-wage workers in his place. The workman has not been working since 14.11.1995 following the order of termination of his services. Under the circumstances, the management is held liable to pay ₹ 1,50,000/- to the workman towards compensation.

Relief :

11. In the view of foregoing finding above, this industrial dispute is ex-parte allowed. The management is held liable to pay ₹ 1,50,000/- to the workman towards compensation within three months from the date of publication of this Award in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the above amount from the date of this Award till its actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . .,

Dated : 02.08.2024.

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Shashi W/o Rakesh Singh, # 680, Phase-2, Ramdarbar, Chandigarh, have changed my name to Shashi Devi.

[1530-1]

I, Keshav S/o Sh. Mohan Kumar R/o H. No. 86, Phase 1, Sector-26, Bdc, Chandigarh, have changed My Name From Keshav to Keshav Narang.

[1531-1]

I, Neetika Kapoor W/o Sh. Pankaj Kapoor, R/o House No. 2068, Sector 27-C, Chandigarh, have changed my minor son name from Aarav to Aarav Kapoor.

[1532-1]

I, Deepak Kumar S/o Hem Raj R/o # 302, Village Maloya, UT Chandigarh, have changed my minor daughter's name from Priyanshi to Priyanshi Sharma.

[1533-1]

I, Rajat Kumar S/o Ram Avtar R/o H. No. 2170, Sector 41-C, Chandigarh, Have Changed My Name From Rajat Kumar to Rajat Kumar Brar.

[1534-1]

I, Ramkishan S/o Sh. Chaman Lal Mehra R/o H. No. 3135/2, Sector 47-D, Chandigarh, have changed my name from Ramkishan to Ramkishan Mehra.

[1535-1]

I, Vivek Nishad S/o Brijnandan Nishad R/o H. No. 1132, Deep Complex Hallo Majra, Chandigarh, changed my name to Vivek Kumar.

[1536-1]

I, Vikrant Kumar S/o Prahlad Bhagat Sharma R/o # 1663, Sector 52, Chandigarh, have changed my name from Vikrant Sharma to Vikrant Kumar.

[1537-1]

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